



State of Tennessee Department of Children's Services

Administrative Policies and Procedures: 13.3

Subject: Improper Commitments

Supersedes: DCS 13.3, 05/15/97

Local Policy: No

Local Procedures: No

Training Required: No

Applicable Practice Model Standard(s): No

Approved by:

Effective date: 05/15/97

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Application

To the Department of Children's Services Attorneys and Employees

Authority: TCA 37-5-106, 37-1-137

Policy

The DCS Regional Attorney shall review the legalities of commitments when there is reasonable belief that the commitment is improper.

Procedures

**A. Question of
legality of a
commitment order**

1. The court liaison will, within twenty-four (24) hours, notify the DCS Regional Attorney of any questions or concerns regarding the legality of a commitment order.
2. The DCS Regional Attorney will review the commitment order and determine the legality of the order and the next appropriate action if the order is illegal.
3. The DCS Regional Attorney shall consult with the appropriate District Attorney (who represented the state in the delinquency matter) as needed.

- B. Role of the DCS legal staff**
1. The DCS Regional Attorney shall represent the concerns of the Department in cases where they provided the Department's initial legal representation.
 2. The DCS Regional Attorney and appropriate regional and/or DCS YDC program staff shall then determine appropriate remedies that may be pursued through the Court system.
- C. Status of order until further court action**
- In all cases, staff should presume, until informed otherwise, that the youth/child's commitment is legal. Court orders shall be followed unless either stayed or overturned.
- D. Handling of case records**
- In the event that the commitment of a youth adjudicated delinquent is determined to be illegal by the Court and the youth is removed from the custody of DCS, the appropriate case manager will ensure that all records (including electronic records) of such commitment are destroyed.

Forms

None

Collateral Documents

None

Standards

None